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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re FANNIE MAE 2008 SECURITIES :
LITIGATION :
: ORDER
09 MD 2013 (PAC)
08 CIV.7831 (PAC)
:
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MALKA KRAUSZ, Individually and :
On Behalf of all Others Similarly Situated, :
: Plaintiff, :
: : ORDER
: 08 CIV. 08519 (PAC)
: -against- :
: : ORDER
: 08 CIV. 08519 (PAC)
FEDERAL NATIONAL MORTGAGE :
ASSOCIATION, DANIEL H. MUDD, :
STEPHEN M. SWAD, LEHMAN :
BROTHERS INC., MERRILL LYNCH, :
PIERCE, FENNER & SMITH, INC., :
GOLDMAN SACKS & CO. AND :
J.P. MORGAN SECURITIES, INC., :
: Defendants.
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HONORABLE PAUL A. CROTTY, United States District Judge:

On April 16, 2009, the Court entered an Order consolidating for pretrial purposes all related actions pertaining to the issuance, purchase, or sale of securities of Federal National Mortgage Association (“Fannie Mae”) brought under the federal securities laws or state laws. (Order of April 16, 2009, In re Fannie Mae 2008 Securities Litigation, Case No. 1:08-cv-07831-GEL (Dkt. No. 94)) (the “Consolidation Order”). The Consolidation Order provides for dismissal of the original complaints filed in the consolidated action unless a plaintiff can show cause why the original complaint should not be dismissed. One of the consolidated actions is Krausz v. Federal National Mortgage Association, Case No. 1:08-cv-08519-GEL (Dkt. No. 55) (the “Krausz Action”).

On July 2, 2009, Plaintiffs in the Krausz Action filed a motion for relief from withdrawal and dismissal of their complaint in the Krausz Action pursuant to the Consolidation Order. The Krausz Action is asserted on behalf of a uniquely-defined investor class: purchasers of exclusively one class of Fannie Mae securities, Series S Fixed-to-Floating Rate Non-Cumulative Preferred Stock (“Series S Preferred Stock”). Plaintiffs argue that because investors like Krausz purchased only Series S Preferred Stock, there is a potential conflict between Lead Plaintiff Tennessee Consolidated Retirement System (“TCRS”) and investors like Krausz. Krausz further notes that in the event Fannie Mae files for bankruptcy, the claims and rights of purchasers of Series-S Preferred Stock could potentially conflict with the claims and rights of purchasers of Fannie Mae common stock and purchasers of Fannie Mae preferred shares other than Series-S Preferred Stock.

Krausz’s arguments have already been rejected by the Court. On February 13, 2009, Krausz’s counsel made similar arguments in opposition to TCRS’ motion for appointment as lead plaintiff. At that hearing, the Court found that TCRS was not conflicted and could adequately represent a class Fannie Mae preferred stock purchasers. See Transcript of Feb. 13 Hearing before Judge Lynch at 12:19-13:25. Indeed TCRS has certified that it participated in the Series S Preferred Stock offering, the same offering for which Krausz now seeks to perpetuate a standalone action. Krausz’s arguments are no more persuasive now than on February 13, 2009. Allowing Krausz to proceed with a duplicate class action would lead to redundant discovery and motion practice, undermining the goal of efficiency that consolidation and lead plaintiff appointments were intended to accomplish. Accordingly, the Court DENIES Krausz’s motion for relief

from withdrawal and dismissal of their complaint in the Krausz Action pursuant to the Consolidation Order. The Clerk of the Court is directed to close out this motion (Docket #109).

Dated: New York, New York
November 24, 2009

SO ORDERED


PAUL A. CROTTY
United States District Judge